

## § 1001.501

## 42 CFR Ch. V (10-1-00 Edition)

Federal, State or local government agency or board, if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

(3) Only the following factors may be considered as mitigating and a basis for shortening the period of exclusion—

(i) The individual's or entity's cooperation with Federal or State officials resulted in—

(A) Others being convicted or excluded from Medicare, Medicaid and all other Federal health care programs,

(B) Additional cases being investigated or reports being issued by the appropriate law enforcement agency identifying program vulnerabilities or weaknesses, or

(C) The imposition of a civil money penalty against others; or

(ii) Alternative sources of the type of health care items or services furnished by the individual or entity are not available.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46687, Sept. 2, 1998; 64 FR 39426, July 22, 1999]

### § 1001.501 License revocation or suspension.

(a) *Circumstance for exclusion.* The OIG may exclude an individual or entity that has—

(1) Had a license to provide health care revoked or suspended by any State licensing authority, or has otherwise lost such a license (including the right to apply for or renew such a license), for reasons bearing on the individual's or entity's professional competence, professional performance or financial integrity; or

(2) Has surrendered such a license while a formal disciplinary proceeding concerning the individual's or entity's professional competence, professional performance or financial integrity was pending before a State licensing authority.

(b) *Length of exclusion.* (1) An exclusion imposed in accordance with this section will not be for a period of time less than the period during which an individual's or entity's license is revoked, suspended or otherwise not in effect as a result of, or in connection with, a State licensing agency action.

(2) Any of the following factors may be considered aggravating and a basis for lengthening the period of exclusion—

(i) The acts that resulted in the revocation, suspension or loss of the individual's or entity's license to provide health care had or could have had a significant adverse physical, emotional or financial impact on one or more program beneficiaries or other individuals;

(ii) Whether the individual or entity has a documented history of criminal, civil or administrative wrongdoing;

(iii) The acts, or similar acts, had or could have had a significant adverse impact on the financial integrity of the programs; or

(iv) The individual or entity has been the subject of any other adverse action by any other Federal, State or local government agency or board, if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

(3) Only if any of the aggravating factors listed in paragraph (b)(2) of this section justifies a longer exclusion may mitigating factors be considered as a basis for reducing the period of exclusion to a period not less than that set forth in paragraph (b)(1) of this section. Only the following factors may be considered mitigating—

(i) The individual's or entity's cooperation with a State licensing authority resulted in—

(A) The sanctioning of other individuals or entities, or

(B) Additional cases being investigated or reports being issued by the appropriate law enforcement agency identifying program vulnerabilities or weaknesses; or

(ii) Alternative sources of the type of health care items or services furnished by the individual or entity are not available.

(4) When an individual or entity has been excluded under this section, the OIG will consider a request for reinstatement in accordance with § 1001.3001 if the individual or entity obtains a valid license in the State where the license was originally revoked, suspended, surrendered or otherwise lost.

[57 FR 3330, Jan. 29, 1992, as amended at 63 FR 46688, Sept. 2, 1998]